

§ 90-210.25. Licensing.

(a) Qualifications, Examinations, Resident Traineeship and Licensure. –

- (1) To be licensed for the practice of funeral directing under this Article, an applicant for licensure bears the burden of substantiating to the satisfaction of the Board that the applicant:
 - a. Is at least 18 years of age.
 - b. Is of good moral character.
 - c. Possesses a degree in mortuary science or has graduated from a Funeral Director Program, or the equivalent, from a program approved by the Board and accredited by the American Board of Funeral Service Education.
 - d. Within the last three years, has completed 12 months of resident traineeship as a funeral director, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.
 - e. Within the last three years, has obtained passing scores on all of the following examinations:
 1. Entry-level examination in funeral directing administered by The International Conference of Funeral Service Examining Boards.
 2. Repealed by Session Laws 1997-399, s. 5.
 3. Examination of the laws of North Carolina, the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), pursuant to its most recent version, and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.
 4. Examination of pathology.
 - f. Has paid all applicable fees.
- (2) To be licensed for the practice of embalming under this Article, an applicant for licensure bears the burden of substantiating to the satisfaction of the Board that the applicant:
 - a. Is at least 18 years of age.
 - b. Is of good moral character.
 - c. Possesses an associate degree in mortuary science, or the equivalent, from a mortuary science program approved by the Board and accredited by the American Board of Funeral Service Education.
 - d. Within the last three years, has completed 12 months of resident traineeship as an embalmer pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.
 - e. Within the past three years, has passed an oral or written embalmer examination on the following subjects:
 1. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
 2. Repealed by Session Laws 1997-399, s. 6.
 3. Examination of the laws of North Carolina, the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), pursuant to its most recent version, and rules of the Board and

- other agencies dealing with the care, transportation and disposition of dead human bodies.
 - f. Has paid all applicable fees.
- (3) To be licensed for the practice of funeral service under this Article, an applicant for licensure bears the burden of substantiating to the satisfaction of the Board that the applicant:
 - a. Is at least 18 years of age.
 - b. Is of good moral character.
 - c. Possesses an associate degree in mortuary science, or the equivalent, from a mortuary science program approved by the Board and accredited by the American Board of Funeral Service Education.
 - d. Within the last three years, has completed 12 months of resident traineeship as a funeral service licensee, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.
 - e. Within the last three years, has passed an oral or written funeral service examination on the following subjects:
 - 1. Entry-level examination in funeral directing administered by The International Conference of Funeral Service Examining Boards.
 - 2. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
 - 3. Repealed by Session Laws 1997-399, s. 7.
 - 4. Examination of the laws of North Carolina, the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984), pursuant to its most recent version, and rules of the Board and other agencies dealing with the care, transportation and disposition of dead human bodies.
 - f. Has paid all applicable fees.
- (4)
 - a. A person desiring to become a resident trainee shall apply to the Board on a form provided by the Board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof, and shall indicate the licensee under whom the applicant expects to train. A person training to become an embalmer may serve under the supervision of either a licensed embalmer or a funeral service licensee who is in good standing with the Board and who has practiced funeral service or embalming full time for a minimum of five years. A person training to become a funeral director may serve under the supervision of either a licensed funeral director or a funeral service licensee who is in good standing with the Board and who has practiced funeral service or funeral directing full time for a minimum of five years. A person training to become a funeral service licensee shall serve under the supervision of a funeral service licensee who is in good standing with the Board and who has practiced funeral service full time for a minimum of five years. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.
 - b. Within 30 days of a resident trainee leaving the proctorship of the licensee under whom the trainee has worked, the licensee shall file

with the Board an affidavit showing the length of time served with the licensee by the trainee, and the affidavit shall be made a matter of record in the Board's office. The licensee shall deliver a copy of the affidavit to the trainee.

- c. A person who has not completed the traineeship and wishes to do so under a licensee other than the one whose name appears on the original certificate may reapply to the Board for approval.
- d. A certificate of resident traineeship shall be signed by the resident trainee and upon payment of the renewal fee shall be renewable one year after the date of original registration; but the certificate may not be renewed more than two times. The Board shall mail to each registered trainee at the trainee's last known residential address or e-mail address a notice that the renewal fee is due and that, if not paid within 30 days of the notice, the certificate will be canceled. A late fee, in addition to the renewal fee, shall be charged for a late renewal, except that the renewal of the registration of any resident trainee who is engaged in active service in the Armed Forces of the United States shall not be charged a late fee. No credit shall be allowed for the 12-month period of resident traineeship that shall have been completed more than five years preceding the examination for a license. However, any resident trainee to whom G.S. 105-249.2 grants an extension of time to file a tax return shall be allowed an extension of time to retain credit equal to the number of days of active deployment.
- e. All registered resident trainees shall electronically report to the Board at least once every month during traineeship upon forms provided by the Board listing the work which has been completed during the preceding month of resident traineeship. The Board may set and collect a late fee not to exceed fifty dollars (\$50.00) for each work report filed after the date the report is due. The data contained in the reports shall be certified as correct by the licensee under whom the trainee has served during the period and by the licensed person who is managing the funeral service establishment. Each report shall list the following:
 - 1. For funeral director trainees, the conduct of any funerals during the relevant time period,
 - 2. For embalming trainees, the embalming of any bodies during the relevant time period,
 - 3. For funeral service trainees, both of the activities named in 1 and 2 of this subsection, engaged in during the relevant time period.
- f. To meet the resident traineeship requirements of G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the following must be shown by the affidavit(s) of the licensee(s) under whom the trainee worked:
 - 1. That the funeral director trainee has, under the supervision of the licensed individual, registered as the trainee's supervisor, substantially assisted in directing at least 25 funerals during the resident traineeship,
 - 2. That the embalmer trainee has, under the supervision of the licensed individual, registered as the trainee's supervisor,

- substantially assisted in embalming at least 25 bodies during the resident traineeship,
- 3. That the funeral service trainee has, under the supervision of the licensed individual, registered as the trainee's supervisor, substantially assisted in directing at least 25 funerals and, under the supervision of the licensed individual, registered as the trainee's supervisor, substantially assisted in embalming at least 25 bodies during the resident traineeship.
- g. The Board may suspend, revoke, or refuse to issue or renew a certificate of resident traineeship for violation of any provision of this Article or place a trainee on probation for any violation of this Article or rules adopted by the Board. The Board may determine the length of any suspension, revocation, refusal to issue or renew, or probation and impose conditions on probation and reinstatement as the Board deems appropriate.
- h. Each registered supervisor for a resident trainee must during the period of sponsorship be actively employed with a funeral establishment. The traineeship shall be a primary vocation of the trainee.
- i. Only one resident trainee may register and serve at any one time under any one person licensed and registered as a resident trainee supervisor under this Article.
- j., k. Repealed by Session Laws 1991, c. 528, s. 4.
- l. Any resident trainee or registered supervisor of a resident trainee shall meet with the Board upon request.
- (5) The Board by regulation may recognize other examinations that the Board deems equivalent to its own. After an applicant fails to obtain a passing score on an examination two consecutive times, the applicant must wait at least 60 days to retake the examination.
 - a. All licenses shall be signed by the president and secretary of the Board and the seal of the Board affixed thereto. All licenses shall be issued, renewed or duplicated for a period not exceeding one year upon payment of the renewal fee, and all licenses, renewals or duplicates thereof shall expire and terminate the thirty-first day of December following the date of their issue unless sooner revoked and canceled; provided, that the date of expiration may be changed by unanimous consent of the Board and upon 90 days' written notice of such change to all persons licensed for the practice of funeral directing, embalming and funeral service in this State.
 - b. The holder of any license issued by the Board who shall fail to renew the same on or before February 1 of the calendar year for which the license is to be renewed shall have forfeited and surrendered the license as of that date. No license forfeited or surrendered pursuant to the preceding sentence shall be reinstated by the Board unless it is shown to the Board that the applicant has, throughout the period of forfeiture, engaged full time in another state of the United States or the District of Columbia in the practice to which the applicant's North Carolina license applies and has completed for each such year continuing education substantially equivalent in the opinion of the Board to that required of North Carolina licensees; or has completed in North Carolina a total number of hours of accredited continuing

education computed by multiplying five times the number of years of forfeiture; or has passed the North Carolina examination for the forfeited license. No additional resident traineeship shall be required. The applicant shall be required to pay all delinquent annual renewal fees and a reinstatement fee. The Board may waive the provisions of this section for an applicant for a forfeiture which occurred during the applicant's service in the Armed Forces of the United States provided the applicant applies within six months following severance therefrom.

- c. All licensees now or hereafter licensed in North Carolina shall take continuing education courses approved by the Board in subjects relating to the practice of the profession for which they are licensed, to the end that the benefits of learning and reviewing skills will be utilized and applied to assure proper service to the public.
- d. As a prerequisite to the annual renewal of a license, the licensee must complete, during the year immediately preceding renewal, at least five hours of continuing education courses, of which the Board may require licensees to take up to two hours specified by the Board. All continuing education courses must be approved by the Board prior to enrollment. A licensee who completes more than five hours in a year may carry over a maximum of five hours as a credit to the following year's requirement. A licensee does not have to satisfy the continuing education requirement for the calendar year in which the license was first obtained.
- e. The Board shall not renew a license unless fulfillment of the continuing education requirement has been certified to it on a form provided by the Board, but the Board may waive this requirement for renewal in cases of certified illness or undue hardship or where the licensee lives outside of North Carolina and does not practice in North Carolina, and the Board shall waive the requirement for all licensees who were licensed on or before December 31, 2003, and have been licensed in North Carolina for a continuous period of 25 years or more, for all licensees who are licensed on or after January 1, 2004, who have been licensed for a continuous period of 25 years or more and have attained the age of 60 years, and for all licensees who are, at the time of renewal, members of the General Assembly.
- f. The Board shall cause to be established and offered to the licensees, each calendar year, at least eight hours of continuing education courses. The Board may charge licensees attending these courses a reasonable registration fee in order to meet the expenses thereof and may also meet those expenses from other funds received under the provisions of this Article.
- g. Any person who having been previously licensed by the Board as a funeral director or embalmer prior to July 1, 1975, shall not be required to satisfy the requirements herein for licensure as a funeral service licensee, but shall be entitled to have such license renewed upon making proper application therefor and upon payment of the renewal fee provided by the provisions of this Article. Persons previously licensed by the Board as a funeral director may engage in funeral directing, and persons previously licensed by the Board as an

embalmer may engage in embalming. Any person having been previously licensed by the Board as both a funeral director and an embalmer may upon application therefor receive a license as a funeral service licensee.

- h. The Department of Public Safety may provide a criminal record check to the Board for a person who has applied for a new or renewal license, or certification through the Board. The Board shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subdivision.

(a1) Inactive Licenses. – Any person holding a license issued by the Board for funeral directing, for embalming, or for the practice of funeral service may apply for an inactive license in the same category as the active license held. The inactive license is renewable annually. Continuing education is not required for the renewal of an inactive license. The holder of an inactive license may not engage in any activity requiring an active license. The holder of an inactive license may apply for an active license in the same category, and the Board shall issue an active license if the applicant has completed a total number of hours of accredited continuing education equal to five times the number of years the applicant held the inactive license. No application fee is required for the reinstatement of an active license pursuant to this subsection. The holder of an inactive license who returns to active status shall surrender the inactive license to the Board.

(a2) In order to engage in the practice of funeral directing or funeral service, such a licensee must own, be employed by, or otherwise be an agent of a licensed funeral establishment; except that such a licensee may practice funeral directing or funeral service if any of the following apply:

- (1) The licensee is employed by a college of mortuary science.
- (2) The licensee does all of the following:
 - a. Maintains all of the licensee's business records at a location made known to the Board and available for inspection by the Board under the same terms and conditions as the business records of a licensed funeral establishment.
 - b. Complies with rules and regulations imposed on funeral establishments and the funeral profession that are designed to protect consumers, to include, but not be limited to, the Federal Trade Commission's laws and rules requiring General Price Lists and Statements of Goods and Services.

- c. Pays to the Board the funeral establishment license fee required by law and set by the Board.
 - d. Obtains and maintains a professional liability insurance policy with liability limits of at least one million dollars (\$1,000,000). Certificates of professional liability insurance shall be (i) submitted to the Board within 30 days of the initial registration of the licensee by the Board and (ii) submitted to the Board upon request. The licensee shall notify the Board in writing within 30 days of any change in the insurer or any cancellation or suspension of policy.
Nothing in this subdivision shall preclude a licensee from arranging cremations and cremating human remains while employed by a crematory.
- (b) **Persons Licensed under the Laws of Other Jurisdictions. –**
 - (1) The Board shall grant licenses to funeral directors, embalmers and funeral service licensees, licensed in other jurisdictions, when it is shown that the applicant has satisfied all of the following:
 - a. The applicant holds an active, valid license in good standing as a funeral director, embalmer, or funeral service licensee issued by a jurisdiction that will reciprocate a North Carolina license to practice as a funeral director, embalmer, or funeral service licensee. The license, at the time it was issued by the other jurisdiction, must have had equal or greater education, training, and examination requirements.
 - b. The applicant has demonstrated knowledge of the laws and rules governing the profession in North Carolina through achieving a passing score on the laws and rules exam administered on behalf of the Board.
 - c. The applicant has submitted proof of the applicant's good moral character.
 - d. The applicant has practiced in the profession for at least three years in a jurisdiction that will reciprocate a North Carolina license to practice as a funeral director, embalmer, or funeral service licensee.
Nothing in this subdivision shall preclude any individual from obtaining a license by meeting the requirements of subdivision (1), (2), or (3) of subsection (a) of this section.
 - (2) Repealed by Session Laws 2018-78, s. 1, effective October 1, 2018.
 - (3) The Board may issue special permits, to be known as courtesy cards, permitting nonresident funeral directors, embalmers and funeral service licensees to remove bodies from and to arrange and direct funerals and embalm bodies in this State, but these privileges shall not include the right to establish a place of business in or engage generally in the business of funeral directing and embalming in this State. Except for special permits issued by the Board for teaching continuing education programs and for work in connection with disasters, no special permits may be issued to nonresident funeral directors, embalmers, and funeral service licensees from states that do not issue similar courtesy cards to persons licensed in North Carolina pursuant to this Article.
- (c) **Registration, Filing and Transportation. –**
 - (1) The holder of any license granted by this State for those within the funeral service profession or renewal thereof provided for in this Article shall cause

registration to be filed in the office of the board of health of the county or city in which he practices his profession, or if there be no board of health in such county or city, at the office of the clerk of the superior court of such county. All such licenses, certificates, duplicates and renewals thereof shall be displayed in a conspicuous place in the funeral establishment where the holder renders service.

- (2) It shall be unlawful for any railway agent, express agency, baggage master, conductor or other person acting as such, to receive the dead body of any person for shipment or transportation by railway or other public conveyance, to a point outside of this State, unless the body is accompanied by a burial-transit permit.
- (3) The "transportation or removal of a dead human body" shall mean the removal of a dead human body for a fee from the location of the place of death or discovery of death or the transportation of the body to or from a medical facility, funeral establishment or facility, crematory or related holding facility, place of final disposition, or place designated by the Medical Examiner for examination or autopsy of the dead human body.
- (4) Any individual, not otherwise exempt from this subsection, shall apply for and receive a permit from the Board before engaging in the transportation or removal of a dead human body in this State. Unless otherwise exempt from this subsection, no corporation or other business entity shall engage in the transportation or removal of a dead human body unless it has in its employ at least one individual who holds a permit issued under this section. No individual permit holder shall engage in the transportation or removal of a dead human body for more than one person, firm, or corporation without first providing the Board with written notification of the name and physical address of each such employer.
- (5) The following persons shall be exempt from the permit requirements of this section but shall otherwise be subject to subdivision (9) of this subsection and any rules relating to the proper handling, care, removal, or transportation of a dead human body:
 - a. Licensees under this Article and their employees.
 - b. Employees of common carriers.
 - c. Except as provided in sub-subdivision (6)c. of this section, employees of the State and its agencies and employees of local governments and their agencies.
 - d. Funeral directors licensed in another state and their employees.
- (6) The following persons shall be exempt from this section:
 - a. Emergency medical technicians, rescue squad workers, volunteer and paid firemen, and law enforcement officers while acting within the scope of their employment.
 - b. Employees of public or private hospitals, nursing homes, or long-term care facilities, while handling a dead human body within such facility or while acting within the scope of their employment.
 - c. State and county medical examiners and their investigators.
 - d. Any individual transporting cremated remains.
 - e. Any individual transporting or removing a dead human body of their immediate family or next of kin.
 - f. Any individual who has exhibited special care and concern for the decedent.

- (7) Individuals eligible to receive a permit under this section for the transportation or removal of a dead human body for a fee, shall:
- a. Be at least 18 years of age.
 - b. Possess and maintain a valid drivers license issued by this State and provide proof of all liability insurance required for the registration of any vehicle in which the person intends to engage in the business of the removal or transportation of a dead human body.
 - c. Affirmatively state under oath that the person has read and understands the statutes and rules relating to the removal and transportation of dead human bodies and any guidelines as may be adopted by the Board.
 - d. Provide three written character references on a form prescribed by the Board, one of which must be from a licensed funeral director.
 - e. Be of good moral character.
 - f. Obtain and maintain a professional liability insurance policy with liability limits of at least five hundred thousand dollars (\$500,000). Certificates of professional liability insurance shall be (i) submitted to the Board within 30 days of the initial registration of the transporter by the Board and (ii) submitted to the Board annually as a condition for renewal of each transport permit. The transporter shall notify the Board in writing within 30 days of any change in the insurer or any cancellation or suspension of the policy. Individuals covered by an employer's professional liability insurance policy shall provide evidence satisfactory to the Board that the policy covers that individual and meets the criteria provided in this sub-subdivision.
- (8) The permit issued under this section shall expire on December 31 of each year. The application fee for the individual permit shall not exceed one hundred twenty-five dollars (\$125.00). A fee, not to exceed one hundred dollars (\$100.00), in addition to the renewal fee not to exceed seventy-five dollars (\$75.00), shall be charged for any application for renewal received by the Board after February 1 of each year.
- (9) No person shall transport a dead human body in the open cargo area or passenger area of a vehicle or in any vehicle in which the body may be viewed by the public. Any person removing or transporting a dead human body shall either cover the body, place it upon a stretcher designed for the purpose of transporting humans or dead human bodies in a vehicle, and secure such stretcher in the vehicle used for transportation, or shall enclose the body in a casket or container designed for common carrier transportation, and secure the casket or container in the vehicle used for transportation. No person shall fail to treat a dead human body with respect at all times. No person shall take a photograph or video recording of a dead human body without the consent of a member of the deceased's immediate family or next of kin or other authorizing agent.
- (10) The Board may adopt rules under this section including permit application procedures and the proper procedures for the removal, handling, and transportation of dead human bodies. The Board shall consult with the Office of the Chief Medical Examiner before initiating rule making under this section and before adopting any rules pursuant to this section. Nothing in this section prohibits the Office of the Chief Medical Examiner from adopting policies and procedures regarding the removal, transportation, or handling of a dead

human body under the jurisdiction of that office that are more stringent than the laws in this section or any rules adopted under this section.

- (11) Each applicant for a permit shall provide the Board with the applicant's home address, name and address of any corporation or business entity employing such individual for the removal or transportation of dead human bodies, and the make, year, model, and license plate number of any vehicle in which a dead human body is transported. A permittee shall provide written notification to the Board of any change in the information required to be provided to the Board by this section or by the application for a permit within 30 days after such change takes place.
- (12) If any person shall engage in or hold himself out as engaging in the business of transportation or removal of a dead human body without first having received a permit under this section, the person shall be guilty of a Class 2 misdemeanor.
- (13) The Board shall have the authority to inspect any place or premises that the business of removing or transporting a dead human body is carried out and shall also have the right of inspection of any vehicle and equipment used by a permittee for the removal or transportation of a dead human body.
- (14) The Board may suspend, revoke, or refuse to issue or renew the permit, place the permittee on a term of probation, or impose a civil penalty not to exceed five thousand dollars (\$5,000) in conjunction with a term of probation or in lieu of other disciplinary action when it finds that any person permitted to transport dead human bodies has engaged in any of the following acts:
 - a. Conviction of a felony or a crime involving fraud or moral turpitude.
 - b. Denial, suspension, or revocation of an occupational or business license by another jurisdiction.
 - c. Fraud or misrepresentation in obtaining or renewing a permit.
 - d. False or misleading advertising as the holder of a permit.
 - e. Solicitation of dead human bodies by the permittee or the permittee's agents, assistants, or employees. However, this sub-subdivision shall not be construed to prohibit general advertising.
 - f. Gross immorality, including being under the influence of alcohol or drugs while handling or transporting dead human bodies.
 - g. Failing to treat a dead human body with respect at all times.
 - h. Violating or cooperating with others to violate any of the provisions of this Article, any rules and regulations of the Board, or any State law or municipal or county ordinance or regulation affecting the handling, custody, care, or transport of dead human bodies.
 - i. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to custody of the body.
 - j. Indecent exposure or exhibition of a dead human body while in a permittee's custody or control.
 - k. Practicing funeral directing, funeral service, or embalming without a license.

The Board shall have the authority to determine the length and conditions of any period of revocation, suspension, refusal to issue or renew, or probation.

- (d) Establishment Permit. –

- (1) No person, firm or corporation shall conduct, maintain, manage or operate a funeral establishment unless a permit for that establishment has been issued by the Board and is conspicuously displayed in the establishment. Each funeral establishment at a specific location shall be deemed to be a separate entity and shall require a separate permit and compliance with the requirements of this Article.
- (2) A permit shall be issued when:
 - a. It is shown that the funeral establishment has in charge a person, known as a manager, licensed for the practice of funeral directing or funeral service, who shall not be permitted to manage more than one funeral establishment. The manager shall be charged with overseeing the daily operation of the funeral establishment. If the manager leaves the employment of the funeral establishment and is the only licensee employed who is eligible to serve as manager, the funeral establishment may operate without a manager for a period not to exceed 30 days so long as: (i) the funeral establishment retains one or more licensees to perform all services requiring a license under this Article; (ii) the licensees are not practicing under the exception authorized by G.S. 90-210.25(a2) and would otherwise be eligible to serve as manager; and (iii) the funeral establishment registers the name of the licensees with the Board.
 - b. The Board receives a list of the names of all part-time and full-time licensees employed by the establishment.
 - c. It is shown that the funeral establishment satisfies the requirements of G.S. 90-210.27A.
 - d. The Board receives payment of the permit fee.
- (3) Applications for funeral establishment permits shall be made on forms provided by the Board and filed with the Board by the owner, a partner, a member of the limited liability company, or an officer of the corporation by January 1 of each year, and shall be accompanied by the application fee or renewal fee, as the case may be. All permits shall expire on December 31 of each year. If the renewal application and renewal fee are not received in the Board's office on or before February 1, a late renewal fee, in addition to the regular renewal fee, shall be charged.
- (4) The Board may place on probation, refuse to issue or renew, suspend, or revoke a permit when an owner, partner, manager, member, operator, or officer of the funeral establishment violates any provision of this Article or any regulations of the Board, or when any agent or employee of the funeral establishment, with the consent of any person, firm or corporation operating the funeral establishment, violates any of those provisions, rules or regulations. In any case in which the Board is entitled to place a funeral establishment permittee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with the probation. In any case in which the Board is entitled to suspend, revoke, or refuse to renew a permit, the Board may accept from the funeral establishment permittee an offer to pay a penalty of not more than five thousand dollars (\$5,000). The Board may either accept a penalty or revoke or refuse to renew a license, but not both. Any penalty under this subdivision may be in addition to any penalty assessed against one or more licensed individuals employed by the funeral establishment. The Board shall have the

authority to determine the length and conditions of any period of revocation, suspension, refusal to issue or renew, or probation.

- (5) Funeral establishment permits are not transferable. A new application for a permit shall be made to the Board within 30 days of a change of ownership of a funeral establishment. A change to the legal structure owning a funeral establishment shall constitute a change of ownership only when there is a change of a majority of the funeral establishment's owners, partners, managers, members, operators, or officers. For the purposes of this subdivision, a funeral establishment means one or more structures on a contiguous piece of property.

(d1) Embalming Outside Establishment. – An embalmer who engages in embalming in a facility other than a funeral establishment or in the residence of the deceased person shall, no later than January 1 of each year, register the facility with the Board on forms provided by the Board.

(e) Revocation; Suspension; Compromise; Disclosure. –

- (1) Whenever the Board finds that an applicant for a license or a person to whom a license has been issued by the Board is guilty of any of the following acts or omissions and the Board also finds that the person has thereby become unfit to practice, the Board may suspend or revoke the license or refuse to issue or renew the license, in accordance with the procedures set out in Chapter 150B of the General Statutes:

- a. Conviction of a felony or a crime involving fraud or moral turpitude.
- a1. Denial, suspension, or revocation of an occupational or business license by another jurisdiction.
- b. Fraud or misrepresentation in obtaining or renewing a license or in the practice of funeral service or operation of a licensee's business.
- c. False or misleading advertising as the holder of a license.
- d. Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this paragraph shall not be construed to prohibit general advertising by the licensee.
- e. Employment directly or indirectly of any resident trainee agent, assistant or other person, on a part-time or full-time basis, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee.
- f. The payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business except as authorized by Article 13D of this Chapter.
- g. Gross immorality, including being under the influence of alcohol or drugs while practicing funeral service.
- h. Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.
- i. Failing to treat a dead human body with respect at all times.
- j. Violating or cooperating with others to violate any of the provisions of this Article or Articles 13D, 13E, or 13F of this Chapter, any rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

- k. Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.
 - l. Refusing to surrender promptly the custody of a dead human body or cremated remains upon the express order of the person lawfully entitled to the custody thereof.
 - m. Knowingly making any false statement on a certificate of death or violating or cooperating with others to violate any provision of Article 4 or 16 of Chapter 130A of the General Statutes or any rules or regulations promulgated under those Articles as amended from time to time.
 - n. Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.
 - o. Failure to refund any insurance proceeds received as consideration in excess of the funeral contract purchase price within 30 days of receipt; provided, however, that this provision shall not be construed to include interest or growth on funds paid toward funeral goods and services to be provided pursuant to an inflation-proof preneed contract.
 - p. Failure to provide, within a reasonable time, either the goods and services contracted for or a refund for the price of goods and services paid for but not fulfilled.
 - q. Violation of G.S. 58-58-97.
In any case in which the Board is entitled to suspend, revoke or refuse to renew a license, the Board may accept from the licensee an offer to pay a penalty of not more than five thousand dollars (\$5,000). The Board may either accept a penalty or revoke or refuse to renew a license, but not both.
- (2) Where the Board finds that a licensee is guilty of one or more of the acts or omissions listed in subdivision (e)(1) of this section but it is determined by the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter 150B of the General Statutes. In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with the probation. The Board may also require satisfactory completion of remedial or educational training as a prerequisite to license reinstatement or for completing the term of probation. The Board shall have the authority to determine the length and conditions of any period of suspension, revocation, probation, or refusal to issue or renew a license.

No person licensed under this Article shall remove or cause to be embalmed a dead human body when he or she has information indicating crime or violence of any sort in connection with the cause of death, nor shall a dead human body be cremated, until permission of the State or county medical examiner has first been obtained. However, nothing in this Article shall be construed to alter the duties and authority now vested in the office of the coroner.

No funeral establishment shall accept a dead human body from any public officer (excluding the State or county medical examiner or his agent), or employee or from the official of any institution, hospital or nursing home, or from a physician or any person having a professional relationship with a decedent, without having first made due inquiry as to the desires of the persons who have the legal authority to direct the disposition of the decedent's body. If any persons are found, their authority and directions shall govern the disposal of the remains of the decedent.

Any funeral service establishment receiving the remains in violation of this subsection shall make no charge for any service in connection with the remains prior to delivery of the remains as stipulated by the persons having legal authority to direct the disposition of the body. This section shall not prevent any funeral service establishment from charging and being reimbursed for services rendered in connection with the removal of the remains of any deceased person in case of accidental or violent death, and rendering necessary professional services required until the persons having legal authority to direct the disposition of the body have been notified.

When and where a licensee presents a selection of funeral merchandise to the public to be used in connection with the service to be provided by the licensee or an establishment as licensed under this Article, a card or brochure shall be directly associated with each item of merchandise setting forth the price of the service using said merchandise and listing the services and other merchandise included in the price, if any. When there are separate prices for the merchandise and services, such cards or brochures shall indicate the price of the merchandise and of the items separately priced.

At the time funeral arrangements are made and prior to the time of rendering the service and providing the merchandise, a funeral director or funeral service licensee shall give or cause to be given to the person or persons making such arrangements a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein, the price of each of the supplemental items of services or merchandise requested, and the amounts involved for each of the items for which the funeral establishment will advance moneys as an accommodation to the person making arrangements, insofar as any of the above items can be specified at that time. If fees charged by a finance company for expediting payment of life insurance proceeds to the establishment will be passed on to the person or persons responsible for payment of the funeral expenses, information regarding the fees, including the total dollar amount of the fee, shall be disclosed in writing. The statement shall have printed, typed or stamped on the face thereof: "This statement of disclosure is provided under the requirements of North Carolina G.S. 90-210.25(e)." The Board may prescribe other disclosures that a licensee shall give to consumers upon finding that the disclosure is necessary to protect public health, safety, and welfare.

(e1) The taking or recovery of human tissue at a funeral establishment by any person is prohibited. The prohibition does not apply to any of the following:

- (1) A licensee under this Article that performs embalming or otherwise prepares a dead human body in the ordinary course of business.
- (2) The Chief Medical Examiner or anyone acting under the Chief Medical Examiner's authority.
- (3) An autopsy technician who takes or recovers tissue from a dead human body if all of the following apply:
 - a. The taking or recovery is the subject of an academic research program.
 - b. The academic research program has appropriate Institutional Review Board supervision.
 - c. The academic research program has obtained informed consent of the donor or the person legally authorized to provide consent.

No funeral establishment or person licensed under this Article shall permit the taking or recovery of human tissue from a dead human body in its custody or control for human transplantation purposes or for research purposes, except that a funeral establishment or person licensed under this Article may permit an autopsy technician to take or recover tissue at a funeral establishment pursuant to subdivision (3) of this subsection. No funeral establishment or any of its licensees, agents, or employees shall accept, solicit, or offer to accept any payment, gratuity, commission, or compensation of any kind for referring potential tissue donors to a tissue bank or

tissue broker or to an eye bank or eye broker. For purposes of this subsection, the term "tissue" does not include an eye.

(f) Unlawful Practices. – The following shall constitute unlawful practices:

- (1) Any person who practices or holds himself or herself out as practicing the profession or art of embalming, funeral directing or practice of funeral service or operating a funeral establishment without having complied with the provisions of this Article shall be guilty of a Class 2 misdemeanor.
- (2) Any person who knowingly or willfully abuses or mutilates a dead human body in a person's custody shall be guilty of a Class 2 misdemeanor. It shall not be a violation of this subdivision for a person licensed to practice embalming or funeral service under this Article to embalm a dead human body consistent with techniques of embalming generally recognized by embalming or funeral service licensees under this Article or for a person licensed to practice funeral directing or funeral service to exhibit a dead human body consistent with lawful instructions from the person authorized to dispose of the dead human body.

(g) Whenever it shall appear to the Board that any person, firm or corporation has violated, threatens to violate or is violating any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of any county in which the acts are alleged to have been committed or in the county where the defendant in the action resides. (1901, c. 338, ss. 9, 10, 14; Rev., ss. 3644, 4388; 1917, c. 36; 1919, c. 88; C.S., ss. 6781, 6782; 1949, c. 951, s. 4; 1951, c. 413; 1957, c. 1240, ss. 2, 21/2; 1965, cc. 719, 720; 1967, c. 691, s. 48; c. 1154, s. 2; 1969, c. 584, ss. 3, 3a, 4; 1975, c. 571; 1979, c. 461, ss. 11-21; 1981, c. 619, ss. 1-4; 1983, c. 69, s. 5; 1985, c. 242; 1987, c. 430, ss. 4-11; c. 827, s. 1; c. 879, s. 6.2; 1991, c. 528, ss. 4, 5; 1993, c. 539, s. 638; 1994, Ex. Sess., c. 24, s. 14(c); 1997-399, ss. 5-13; 2001-294, s. 3; 2002-147, s. 9; 2003-420, ss. 1, 7; 2007-297, s. 1; 2007-531, s. 4; 2011-183, s. 63; 2014-100, s. 17.1(o); 2018-78, s. 1.)